Speech for the Minister of Justice and Attorney General of Canada,
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Canadian Bar Association
"Toward a More Effective Justice System"
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Introduction

Thank you, (MC), for your kind introduction. And thank you all for the warm welcome to St. John's.

I appreciate the invitation to speak to you today. I'm sure you join me in expressing appreciation to the Canadian Bar Association and the many volunteers for the hard work they've put into this worthwhile program and to this annual conference.

Since this is the first time I've addressed you as a group, I'd like to give you a bit of a sense of who I am and where I have come from.

I am proud to say that I have spent all but four years of my professional life in public service—whether in practice in the Manitoba Department of Justice or representing constituents at the provincial and now federal levels.

Having been an elected representative for more than a decade now, I have a deep and abiding faith in the value of the democratic process, in the institution of the legislature and Parliament, and in the need for those institutions to respond to the concerns of the people we represent.

In addition, having been Minister of Justice for Manitoba myself, I understand the need for dialogue among the various parties in the justice system. Since I've been named Canada's Minister of Justice and Attorney General, I have met one on one with most of my provincial and territorial counterparts—and I intend to meet all of them in the near future.

In my view, the Government of Canada and the legal profession have a shared interest in a justice system that is accountable, efficient, accessible and responsive.

Unfortunately, many Canadians believe that our justice system has become less and less effective. In their view, it hasn't kept up with the realities of the 21 st century. It moves too slowly. And it doesn't give a voice to the victims of crime.

To make our justice system more effective, we will need a concerted and collective effort on the part of governments, courts and the legal profession. This will be the main focus of my remarks today.

But first, I'd like to give you an overview of the progress this Government has made on the issues that Canadians want us to address—the legislation that I believe will help create safer and healthier communities and make a positive difference in the lives of Canadians.

What We've Done: Tackling Crime

Our Government came into power committed to five priorities, one of which was getting tough on crime. I am working closely with my colleague, the Minister of Public Safety, Stockwell Day, to implement this important priority.

This spring, we introduced five new bills that will make our communities safer.

We proposed reforms to our laws on conditional sentencing, so people who commit serious and violent crime will serve their time behind bars—not at home or in the community.

We introduced our Mandatory Minimum Penalties Bill to send a clear message that using guns to commit crimes will not be tolerated.

Our Government has moved to strengthen our National DNA Data Bank legislation to help our police identify the guilty and exonerate the innocent.

We have also introduced new legislation to increase the maximum penalties for offences that involve street racing, a reckless and dangerous act that kills all too often.

And finally, we introduced legislative proposals that would raise the age at which youth can consent to sexual activity from 14 to 16 years. This legislation targets those who sexually prey upon some of society's most vulnerable individuals.

In addition to these bills, our new Government tabled legislative amendments to end the long-gun registry, and focus enforcement on criminals who use guns.

To back up these commitments, we provided funding in the 2006 Budget to begin recruiting more RCMP personnel and federal prosecutors, to expand the RCMP Training Academy, to further strengthen the National DNA Data Bank and to prevent youth crime.

This approach is meant to be tough, but at the same time, it's balanced. It respects the rights of the accused but does not allow their rights to take precedence over community safety .

Our Government has also moved forward on judicial compensation. We made it a priority to study the Judicial Compensation and Benefits Commission's report, to issue our own response and to introduce a bill reflecting that response.

That bill accepts most of the Commission's recommendations, with a few exceptions. Whereas the Commission recommended a 10.8% increase in salary for Superior Court judges, the Government proposes a modified salary increase of 7.25%.

The Government reached this conclusion after carefully considering the information, data and analysis upon which the Commission made its salary recommendation. Specifically, we considered the weight given to certain wage comparators from the private sector.

However, it will be Parliamentarians who will have the final say on the numbers. The bill has now been referred to committee in the House and we are hopeful that the Committee will give this bill some priority in the fall session.

Where We're Going: A More Effective Justice System

Our Government acted quickly to introduce these bills because we know that Canadians want their justice system to adapt to our current-day realities.

The justice system should be **accountable** to Canadians, **efficient** in the way it serves justice, **accessible** to those who need it, and **responsive**, particularly tothe victims of crime.

Accountable

This past spring, our Government began making strides in making the system more accountable and open.

For the first time in our history, a nominee for the Supreme Court of Canada was interviewed publicly by Members of Parliament from all parties. That led to the appointment of Mr. Justice Marshall Rothstein in April.

I was particularly proud of that decision to establish a public interview process, because it is consistent with our Government's commitment to openness and accountability. It also gave Canadians an opportunity to know more about Justice Rothstein, about how judges and the court system work and about the role of the judiciary in our society more generally. This can only promote public confidence in the courts.

The process protects the integrity of the institution of the Supreme Court while maintaining the appropriate relationship among Parliament, the courts and the executive and preserving judicial independence.

I trust that my Government's decision to move quickly with the appointment of Justice Rothstein stands as a very concrete indicator that this Government takes the needs of the judiciary and the courts seriously.

Efficient

As members of the legal profession, we also take seriously our core values as a nation. As Section 11 b) of our *Charter of Rights and Freedoms* states, "Any person charged with an offence has the right to be tried within a reasonable time."

To guarantee that right, a justice system must be efficient. When I meet with my provincial and territorial counterparts this October here in St. John's, we will be discussing the recommendations of the Steering Committee on Justice Efficiencies and Access to the Justice System.

The Department of Justice is looking at the Committee's recommendations on mega-trials. These include establishing guidelines for chief judges to determine what constitutes a mega-trial, entrenching the role of the case management judge, and dealing with the special needs and obligations of jurors and witnesses in mega-trials.

The provinces and territories are considering recommendations by the Committee on the effective management of cases going to trial. This goes beyond mere efficiency or cost-cutting. It is ensuring that every step of the process contributes to a just result by working the way it is intended to work.

The Committee will also present recommendations at the ministers' meeting in October on early case consideration—that is, putting mechanisms in place to ensure that the merits of both the Crown and defence cases are taken into account early on in a trial process.

Different players in the justice system—government, judiciary and private practice—can use their shared expertise and work in the public interest. This will help us find practical solutions to our common problems while we continue streamlining, strengthening and updating the criminal law.

Bill C-23, introduced this spring, offers reforms to respond to issues that were identified by

provincial and territorial justice partners across Canada. Some of the amendments make certain processes more effective through greater use of technology and by consolidating and rationalizing existing provisions.

My department is measuring the impact of amendments to Bill C-15A (*The Criminal Law Amendment Act, 2001*) that are designed to shorten and simplify the process of the preliminary inquiry.

Together with our provincial and territorial counterparts, we are also continuing to monitor and assess opportunities for further improvements to the criminal justice system.

For example, you will recall previous reviews on reclassifying offences to create more dual-procedure or "hybrid" offences. This is an area that remains of continuing interest because in many cases, these hybrid offences can reduce the need for preliminary inquiries. They can also introduce more flexibility in the process to reflect the seriousness of the specific facts of each case.

When we speak of the justice system, we are not speaking only of the criminal justice system. The family justice system cannot be overlooked as we seek ways to improve the effectiveness of the system as a whole.

The Government of Canada unequivocally supports families—which are the foundation of all societies. To maintain this foundation, families need to know that they can turn to an effective family justice system.

Family justice services can help parents make good decisions for their children at a time of great personal stress. These services can reduce the strain on the court system, thus reducing costs to the taxpayer, to say nothing of the reduced personal costs—to both children and parents.

Because family justice services fall under the purview of provincial governments, the Government of Canada continues to provide the provinces and territories with funding to support effective services.

I believe these services have helped and will continue to help many Canadian parents and children dealing with the legal and personal consequences of divorce. And we will continue to seek ways to support the broader family justice system.

Today, however, I want to acknowledge the many lawyers who deal every day with the rigours of practising family law. Your contribution to the family justice system—through activities such as professional development and collaborative lawyering—is helping families through very difficult times.

I also recognize that there is a strong relationship between the CBA's National Family Law Section and the Department of Justice. I hope that we can continue collaborating successfully to improve the family justice system.

Accessible

Our efforts to make the system more efficient also go a long way to making it more accessible. It is incumbent upon us as members of a civil society to ensure that those who need these services can get them. This is as true for the justice system in general as it is for the family justice system in particular.

One factor that can limit access is the growing length and complexity of trials, and the pressures they create on the courts. No one expressed that sentiment better than Justice Michael Moldaver of the Ontario Court of Appeal when he addressed the Criminal Lawyers' Association last October.

He made an impassioned plea to all the major stakeholders—legislators, judges, Crown attorneys, police and defence counsel—to make a concerted effort to reduce the length of criminal trials.

There are similar trends in civil matters, which are also troubling. Whereas the numbers of civil trials are dropping rapidly, the overall length, complexity and cost of such trials is growing exponentially, so that only the very rich have genuine access.

I know that there are calls within the justice community to address current pressures on the courts by creating additional judicial positions in both family and general trial courts.

However, for the immediate future, I will focus on filling outstanding judicial vacancies. I am not convinced that simply creating new positions—which you know involves a significant and ongoing cost to the taxpayer—will address the increasing pressures of longer and more complex trials.

Nevertheless, I would consider requests for additional positions if there is clear and objective evidence that they are needed. For example, I am reviewing proposals in a number of jurisdictions for expanding Unified Family Courts in light of my government's overall priorities.

I also need to get a better sense of how supernumerary judges are being deployed in addressing the immediate pressures on courts in all jurisdictions. My officials and I look forward to working closely with both the judiciary and the legal community to achieve our shared objective of an efficient, fair and accessible court system.

It would be hard to think of improved accessibility without recognizing here the work of a man with a passion for equal access to legal assistance—Dugald Christie. I know that you join me in expressing condolences to the family of Mr. Christie on his recent and tragic death.

The Government of Canada recognizes that the CBA is a strong advocate of legal aid issues in Canada. We also recognize that there are pressures on provincial and territorial governments in providing both criminal and civil legal aid. I plan to continue working closely with my provincial and territorial colleagues to develop the approach we need to keep legal aid accessible to Canadians.

Responsive

Our efforts to produce a stronger and more effective justice system must also include being responsive to the victims of crime. The Government of Canada has a special responsibility in this area, and we have placed a high priority on the rights and concerns of victims.

Our 2006 budget included funding to give victims a more effective voice in the federal corrections and justice system and greater access to services. These resources will help us continue initiatives that work and develop new ones.

One of the measures we're exploring is the creation of an Ombudsman, Advocate or Commissioner for Victims. As well, the Government continues to support the Victims Fund, which has recently been expanded to help those for whom it is a hardship to attend Parole Board hearings.

In addition, Bill C-23, which we introduced this spring, includes some amendments that are intended to provide the courts with tools to better protect victims from unwanted communications by accused and offenders.

As you know, all the federal, provincial and territorial ministers of justice have endorsed the *Canadian Statement of Basic Principles of Justice for Victims of Crime*. Our new Government will work cooperatively on these initiatives with our provincial and territorial counterparts.

The provinces and territories are primarily responsible for victim services and assistance, and I

would like to acknowledge the significant measures that they have taken toward this end. They include enacting victim-of-crime legislation and the direct delivery of services and assistance to victims of crime. These highly commendable steps demonstrate that we all have a part to play in responding to the victims of crime.

What's Next: Continuing our Commitment

Over the past six months, our Government has taken concrete measures to fulfill our commitment to make the justice system more efficient, more accountable and more responsive to the needs of the people it serves.

But our commitment does not end with these measures. For example, recent events have underscored the importance of remaining vigilant in ensuring that we have in place, effective preventative measures to safeguard our communities and in particular, our children, from known dangerous offenders.

There have been renewed calls for all levels of government to re-assess existing practices and responses in this regard. We have heard these calls and, indeed, share the concern.

I am committed to engaging in such a consideration with my provincial and territorial counterparts in the coming months, to see what more is needed to provide all communities across the country with the level of protection from known dangerous offenders that we all agree is critical.

Our "Tackling Crime" commitment also includes the introduction of a national drug strategy and mandatory minimum penalties for serious drug offences. We continue to work toward this end and hope to be in a position to announce the strategy in the coming months.

We also intend to review laws regarding sentencing and bail, in particular those that deal with long-term offenders, along with repealing the "faint hope" clause of the *Criminal Code*.

Another priority is youth crime prevention. We are working with Minister Day to keep youth at risk from succumbing to the culture of guns, gangs and drugs. Our Government recently announced funding of $20 million to support community-based programs that can provide youth at risk with positive opportunities and help them make good choices.

These types of crime prevention programs are important, and they work. But they work only if the gunmen and drug dealers who put youth at risk are taken off the streets first.

At the same time, we realize that there are reforms that can be made to the *Youth Criminal Justice Act* to deal with those youth that come into the justice system.

As we move forward, our legislation will be informed by the opinions and views of our stakeholders in the justice system.

Conclusion: A Challenge

We know that Canada's system of justice contributes to the well-being of Canadians in many ways—but it also faces many challenges.

I believe that the initiatives that our Government has put forward in the last few months—our criminal legislative reforms, our plan for effective gun control, our investments in safety and security, and our open process for appointing Justices to the Supreme Court of Canada—will help bring about a more effective justice system.

Of course, no level of government, no member of the judiciary or of the CBA—and not even the

Minister of Justice—can work alone to bring about these changes. We must respect the many components that make up our justice system as we work to make it respond to the realities of 21 st-century Canada.

To conclude, I'll leave you with this challenge. If we are to build a justice system that works for Canadians, we need government, courts and the legal profession all making a concerted and collective effort. I urge you all to be part of this effort and help make the improvements to our system that Canadians want and deserve.

As Minister of Justice, I will continue to work hard on behalf of all Canadians to help make this great country a safer, more secure place to live.

And I hope I can count on your keen knowledge of the challenges facing the justice system—and on your dedication to the legal profession and to this great democracy, this great country, Canada—as we move forward together toward this end.

Thank you.

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